

ESTTA Tracking number: **ESTTA578236**

Filing date: **12/23/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213584
Party	Defendant TOYS TEKK
Correspondence Address	SHUN C. CHEN LAW OFFICES OF SHUN C. CHEN 4521 CAMPUS DR # 324 IRVINE, CA 92612-2621 UNITED STATES shunchen@att.net
Submission	Answer and Counterclaim
Filer's Name	Shun C. Chen
Filer's e-mail	shunchen@att.net
Signature	/shun c. chen/
Date	12/23/2013
Attachments	Answer.Cloud.pdf(56691 bytes)

Registration Subject to the filing

Registration No	2860099	Registration date	07/06/2004
Registrant	JAGUAR LAND ROVER LIMITED ABBAY ROAD COVENTRY, GBX CV3 4LF GBX		
Grounds for filing	The registered mark has been abandoned.		

Goods/Services Subject to the filing

Class 028. First Use: 1980/01/01 First Use In Commerce: 1980/01/01 All goods and services in the class are requested, namely: Toys, game and playthings, namely toy model vehicles, replica and scale model vehicles, hobby kits for the construction of toy model and scale model vehicles
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Serial No. **85867803**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Trademark Application

Serial No. **85867803**

Filed: **March 5, 2013**

Trademark: **CLOUD ROVER**

Published in the Official Gazette on July 23, 2013 on page TM 870

Jaguar Land Rover Limited,

Opposer,

v.

Toys Tekk Corporation,

Applicant.

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Serial No. **85867803**
Opposition No. **91213584**

APPLICANT’S ANSWER TO THE NOTICE OF OPPOSITION

Applicant, Toys Tekk Corporation, (“Applicant”), hereby answers the opposition, (“Opposition”), of Opposer Jaguar Land Rover Limited, (“Opposer”), denying Opposer would be damaged by the registration of the word mark “CLOUD ROVER,” and answers Opposer’s allegations as follows:

1. Answering paragraph 1 of the Opposition, Applicant denies the allegations therein, on the ground the allegations are either irrelevant, as to the sale of vehicles, vehicle parts and accessories, and/or Applicant lacks information and belief on the sale of toy model vehicles.
2. Answering paragraph 2 of the Opposition, Applicant denies the allegations therein

based on lack of information and belief and irrelevance, in that Applicant only applies for registration under IC 028.

3. Answering paragraphs 3, and 4, Applicant denies the allegations therein based on lack of information and belief.

4. Answering paragraph 5, Applicant denies the allegations therein based on lack of information and belief and irrelevance as Opposes appears to rely on its marketing of vehicles to confuse and to take unfair advantage of its lack of marketing toy vehicles.

5. Answering paragraphs 6, and 7, Applicant admits the allegations therein.

6. Answering paragraph 8, Applicant denies the allegations therein on the ground Opposer again attempts to conceal its lack of use of its mark on toy vehicles.

7. Answering paragraph 9, Applicant objects to the allegation as that of an (improper) legal conclusion, devoid of legal basis, and denies the allegations therein.

8. Answering paragraphs 10, 11, 12, 13, and 14, Applicant denies the allegations therein, and objects to the use of ROVER Family of Marks on the ground the allegations are irrelevant and in contravention to the existing law.

9. Answering paragraph 15, Applicant denies the allegations therein based on lack of information and belief.

10. Answering paragraphs 16, 17, 18, 19, 20, and 21, Applicant denies the allegations therein.

Affirmative Defenses

11. Based on Applicant's information and belief and thereon alleges the mark LAND

ROVER (Reg. No. 2860099) has been abandoned.

12. Based on Applicant's information and belief and thereon alleges the mark RANGE ROVER (Reg. No. 2100825) has been abandoned.

First Counter-Claim

13. Applicant requests the mark LAND ROVER (Reg. No. 2860099) be cancelled, based on discontinuance of use and intent not to resume such use. Based on Applicant's information and belief and thereon alleges Opposer discontinued use of said mark for 3 or more years and has no intent to resume such use.

Second Counter-Claim

14. Applicant requests the mark RANGE ROVER (Reg. No. 2100825) be cancelled, based on discontinuance of use and intent not to resume such use. Based on Applicant's information and belief and thereon alleges Opposer discontinued use of said mark for 3 or more years and has no intent to resume such use.

Relief requested

14. The Applicant asks that this opposition proceeding be dismissed and that its registration issue forthwith.

15. The Applicant asks that the mark LAND ROVER (Reg. No. 2860099) be cancelled.

16. The Applicant asks that the mark RANGE ROVER (Reg. No. 2100825) be

cancelled.

Dated: December 20, 2013

Respectfully submitted,

By: /Shun C. Chen/
Shun C. Chen
Attorney for Applicant

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PROOF OF SERVICE

I, Shun C. Chen, hereby certify that I served the

APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION

in a sealed envelope, on December 23, 2013, by first-class mail, with postage fully affixed thereon, and deposited in the United States Postal Service Depository in Irvine, California, to

Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

and

Jaguar Land Rover Limited
Abbey Road
Whitley, Coventry
CV3 4LF
United Kingdom

This proof of service is signed on December 23, 2013.

/Shun C. Chen/

Shun C. Chen